

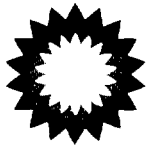


Todd L. Normane

Senior Attorney
BP Legal – Health, Safety & Environment



SDMS DocID 2001304



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ORIGINAL
(Red)

Via Overnight Mail

August 26, 2003

Mr. Patrick Egan (3HS11)
U.S. Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

RE: Lower Darby Creek Area Superfund Site
Response to CERCLA Section 104(e) Request

Dear Mr. Egan:

This letter constitutes BP America Inc.'s response ("Response") to the United States Environmental Protection Agency's ("EPA") letter and request for information dated February 19, 2002 ("RFI") to "BP Oil", which seeks information regarding the Lower Darby Creek Area Superfund Site ("Site"), pursuant to Section 104(e) of the Comprehensive Environmental Response, Compensation, and Liability Act.

EPA claims that it "has reason to believe that wastes generated at locations owned or operated by BP Oil may have been transported to and disposed of at the Site." EPA has supplied no evidence that supports this allegation nor any basis whatsoever to support its "reason to believe."

Notwithstanding the absence of any evidence that demonstrate any nexus to the Site, BP America Inc. submits this response to the RFI in good faith and reserves all rights to dispute any and all claims made by the EPA, with no stated or implied waiver of any of BP America Inc.'s rights, remedies or defenses in this matter. BP America Inc. reserves its right to challenge EPA's authority to request information in this manner in general and will reserve its objections as stated below. This response does not constitute, and should not be construed as, an admission of liability by BP America Inc. for any of the claims, demands, causes of action, releases or violations set forth in the RFI.

General Objections

BP America Inc. objects generally to the overbroad, vague and unduly burdensome requests for documents and information. BP America Inc. further objects to the RFI as overbroad and unduly burdensome in that it seeks documents and information that pertain to a time period of more than 26 to 44 years ago. Reg

BP America Inc. objects to the RFI to the extent that it seeks information beyond the scope of the statutory authorities cited or is protected by the attorney-client privilege, the attorney work product doctrine, or any other privilege. BP America Inc. also objects to the RFI as overbroad and unduly burdensome insofar as it seeks copies of documents that are in the public domain, including documents in the files of any branch of the U.S. government, state government, or any local government.

This Response does not constitute, and should not be construed as an admission of liability by BP America Inc. for any claims, demands, causes of action, releases or alleged violations set forth in the RFI.

Specific Objections

BP America Inc. objects to EPA's overly broad and vague reference to "locations owned or operated by BP," "establishment(s)" and "arrangement." BP America Inc. further objects to the overly broad and vague reference to "facilities in the Philadelphia, Pennsylvania area." The use of broad and vague terms to identify the scope of EPA's inquiry demonstrates that there is no evidence to support the allegation that "EPA has reason to believe that wastes generated at locations owned or operated by BP Oil may have been transported to and disposed of at the Site." EPA has not provided any information or scope of references that would assist BP America Inc. in a search of its records.

Nonetheless, EPA demands that BP America Inc. conduct an exhaustive search of its records regarding an unidentified and unknown scope of facilities that may have been in operation no earlier than 26 years ago and as far back as 44 years ago. This request for information is unduly burdensome, overbroad and objectionable when the basis for the initial speculation is remote and ambiguous at best.

BP America Inc. objects to the vague and ambiguous definition of "arrangement" in the RFI.

Notwithstanding the above general and specific objections, BP America Inc. has made a good faith effort to locate all responsive documents and information, within its possession, custody and control that address matters related to the Lower Darby Creek Area Superfund Site. This Response represents BP America Inc.'s understanding of the inquiry as of this date. BP America Inc. reserves the right to supplement this Response should additional information become available in the future. Subject to the foregoing general and specific objections, BP America Inc. responds as follows.

Response to Request

1. *State the name of your company, its mailing address, and telephone number. Further identify:*
- a. *The dates and states of incorporation of your company;*
- b. *The date and original state of incorporation of your company; and*
- c. *The parent corporation of your company, if any, and all subsidiaries or other affiliated entities.*
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(Req)

Response to Question No. 1

BP America Inc. responds that it has never been known as BP Oil or BP Oil Company nor has it owned or been owned by such named companies. It believes that the EPA is either seeking information from the wrong company and/or has mis-identified a BP affiliated company. Subject to the general and specific objections above, and without waiver of these objections, BP America Inc. responds as follows.

BP America Inc., 4101 Winfield Road, Warrenville, Illinois 60555. Please direct all correspondence regarding this matter to Todd L. Normane, Esq., BP America Inc., 6 Centerpointe Drive, LPR6-552, La Palma, California 90623, Tel: (714) 228-6739; Fax: (714) 228-6570

- a. July 19, 1974; Delaware.
- b. BP United States Inc. was incorporated under the laws of the State of Delaware on July 19, 1974. On May 1, 1978 BP United States Inc. changed its name to BP North America Inc. and on June 22, 1987, BP North America Inc. changed its name to BP America Inc.
- c. BP plc. See also, Response 1(b) above. Various other companies and operations have been added to or divested from BP America Inc. and its predecessors.

2. *What is the current nature of the business or activity conducted at your establishment(s) in the Philadelphia, Pennsylvania area? What was the nature of your business or activity between 1958 and 1976? Please describe in detail. If the nature of your business or activity changed from the period of 1958 to 1976 to the present, please provide a detailed explanation of the changes to date.*

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Response to Question No. 2

Subject to the general and specific objections above, and without waiver of these objections, and upon information and belief, BP America Inc. responds as follows.

Over the last five years, BP America Inc. has, through a series of mergers and acquisitions, added the operations of Amoco, Atlantic Richfield Company, Burmah Castrol and Vastar Inc. to its own ongoing North American business operations. BP America Inc., its predecessor and its affiliated entities owned, operated and/or had contractual relationships with owners or operators of refineries, petrochemical and lubricants plants, pipelines, retail gasoline service stations and terminal distribution facilities in Pennsylvania, New Jersey and Delaware during the relevant time period.

3. *Identify all persons currently or formerly employed by your establishment(s) who have or may have personal knowledge of your operations and waste disposal practices between 1958 and 1976 at your facilities in the Philadelphia, Pennsylvania area. For each such person, state that person's employer, job title, dates of employment, current address, and telephone number. If the current telephone number or address is not available, provide the last known telephone number or last known address of such person.*

Response to Question No. 3

In addition to the general and specific objections given above, BP America Inc. further objects to this Question as unduly burdensome, oppressive and vague regarding the nature of the BP America Inc.'s. employees and the employees' knowledge of relevant matters. BP America Inc. does not compile nor maintain lists of past or present employees in any such fashion. Subject to these objections, and without waiver of these objections, BP America Inc. responds as follows.

BP America Inc. has conducted a diligent search of its records and has not found any documents responsive to this Question. Should BP America Inc. find documents responsive to this Question subsequent to the date of this Response, BP America Inc. will provide such documents to EPA.

4. *Identify the owners and operators of your establishment(s) in Philadelphia, Pennsylvania area from 1958 to the present. For each owner and operator further provide:* (Red)
- a. *The dates of their operation;*
 - b. *The nature of their operation; and*
 - c. *All information or documents relating to the handling and/or generation, storage, treatment, recycling, formulation, disposal, or transportation of any hazardous substance, hazardous waste, pollutant, contaminant, or other waste during the period in which they were operating the establishment(s).*

Response to Question No. 4

In addition to the general and specific objections above, and without waiver of these objections, BP America Inc. and its affiliated entities had a number of gasoline service station and related facilities in Pennsylvania, New Jersey and Delaware that may have been in operation during the relevant time span of 45 years, which have no relation or relevancy to the present matter. EPA asks BP America Inc. to engage in an overly broad and burdensome exercise to provide information that will not further EPA's inquiry regarding the Site. As stated above, this request for information is even more objectionable when the basis for the initial speculation is remote and ambiguous at best. Subject to these objections, and without waiver of these objections, BP America Inc. responds as follows.

- a. See Response to Question 2 above.
- b. See Response to Question 2 above.
- c. BP America Inc. has conducted a diligent search of its records and has not found any information or documents relating to the Site. As EPA has provided no basis to support or suggest that "EPA has reason to believe that wastes generated at locations owned or operated by BP Oil may have been transported to and

disposed of at the Site," a speculative search for the requested information and documents would be unduly burdensome. The RFI seeks "information concerning the release, or threat of release, of hazardous substances, pollutants or contaminants into the environment" at the Site. BP America Inc. has conducted a diligent search of its records and has not found any information or documents regarding disposal of any materials at the Site. Indeed, BP America Inc. has not found any information or documents relating to the Site at all. Should BP America Inc. find such documents subsequent to the date of this Response, BP America Inc. will provide such documents to EPA.

5. *Describe the types of documents generated or maintained by your establishment(s) in the Philadelphia, Pennsylvania area concerning the handling and/or generation, storage, treatment, transportation, recycling, formulation, or disposal of any hazardous substance, hazardous waste, pollutant, contaminant or other waste between 1958 and 1976.*
- a. *Provide a description of the information included in each type of document and identify the person who was/is the custodian of the documents;*
 - b. *Describe any permits or permit applications and any correspondence between your company and/or establishment(s), and any regulatory agencies regarding the transportation and disposal of such wastes, and*
 - c. *Describe any contracts or correspondence between your company and/or establishment(s) and any other company or entity regarding the transportation and disposal of such wastes.*

Response to Question No. 5

Subject to its general and specific objections and without waiver of its objections, BP America Inc. responds as follows: See Response to Question 4 above.

6. *Identify every hazardous substance used, generated, purchased, stored, or otherwise handled at your establishment(s) in the Philadelphia, Pennsylvania area between 1958 and 1976. Provide chemical analyses and Material Safety Data Sheets ("MSDS"). With respect to each such hazardous substance, further identify:*
- a. *The process(es) in which each hazardous substance was used, generated, purchased, stored, or otherwise handled;*
 - b. *The chemical composition, characteristics, and physical state (solid, liquid, or gas) of each such hazardous substance;*
 - c. *The annual quantity of each such hazardous substance used, generated, purchased, stored, or otherwise handled;*
 - d. *The beginning and ending dates of the period(s) during which such hazardous substance was used, generated, purchased, stored, or otherwise handled;*
 - e. *The types and sizes of containers in which these substances were transported and stored; and*
 - f. *The persons or companies that supplied each such hazardous substance to your company.*

Response to Question No. 6

Subject to its general and specific objections and without waiver of its objections, BP America Inc. responds as follows: See the Response to Question 4 above.

7. *Identify all by-products and wastes generated, stored, transported, treated, disposed of, released, or otherwise handled by your establishment(s) in the Philadelphia, Pennsylvania area between 1958 and 1976. With respect to each such by-product and waste identified, further provide:*

- a. *The process(es) in which each such by-product and waste was generated, stored, transported, treated, disposed of, released, or otherwise handled;*
- b. *The chemical composition, characteristics, and physical state (solid, liquid, or gas) of each such by-product or waste;*
- c. *The annual quantities of each such by-product and waste generated stored, transported, treated, disposed of, released, or otherwise handled;*
- d. *The types, sizes, and numbers of containers used to treat, store, or dispose of each such by-product or waste;*
- e. *The name of the individual(s) and/or company(ies) that disposed of or treated each such by-product or waste; and*
- f. *The location and method of treatment and/or disposal of each such by-product or waste.*

Response to Question No. 7

Subject to its general and specific objections and without waiver of its objections, BP America Inc. responds as follows: See the Response to Question 4 above.

- 8. *Did BP Oil ever contract with, or make arrangements with any of the following entities, for the removal or disposal of waste from your facilities/establishments in the Philadelphia area between 1958 and 1976:*
 - a. *Folcroft Landfill Corporation;*
 - b. *Bernie McNichol;*
 - c. *Edward Mullin;*
 - d. *Clearview Land Development Corporation;*
 - e. *Edward or Richard Heller;*
 - f. *Tri-County Hauling;*
 - g. *Eastern Industrial Corporation;*
 - h. *Marvin Jonas or Jonas Waste Removal;*
 - i. *Bernard McHugh or McHugh Trash Company;*
 - j. *S. Buckly (ey) Trash Hauling;*
 - k. *City Wide Services, Inc.;*

- l. Gene Banta of Gene Banta Trash Removal;
- m. Schiavo Brothers;
- n. Charles Crumley or Crumley Waste;
- o. Harman or Harway Trash;
- p. Oil Tank Lines;
- q. Paolino Company;
- r. Charles Crawley Waste Hauling;
- s. Ed Lafferty and Son;
- t. Bazzarie Trash Company;
- u. Sparky Barnhouse or ABM Disposal Services Company; and
- v. Any other individual, company, or municipality.

Response to Question No. 8.

Subject to its general and specific objections and without waiver of its objections, BP America Inc. responds as follows: See the Response to Question 4 above.

9. *For each of the above identified entities with whom BP Oil contracted or made arrangements with for waste removal and/or disposal, please identify the following:*
- a. *The person with whom you made such a contract or arrangement;*
 - b. *The date(s) on which or time period during which such material was removed or transported for disposal;*
 - c. *The nature of such material, including the chemical content, characteristics, and physical state (i.e., liquid, solid, or gas);*
 - d. *The annual quantity (number of loads, gallons, drums) of such material;*
 - e. *The manner in which such material was containerised for shipment or disposal;*
 - f. *The location to which such material was transported for disposal;*
 - g. *The person(s) who selected the location to which such material was transported for disposal;*

- h. *The individuals employed with any transporter identified (including truck drivers, dispatchers, managers, etc.) with whom your establishment dealt concerning removal or transportation of such material; and*
- i. *Any billing information and documents (invoices, trip tickets, manifest, etc.) in your possession regarding arrangements made to remove or transport such material.*

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Response to Question No. 9.

Subject to its general and specific objections and without waiver of its objections, BP America Inc. responds as follows: See the Response to Question 4 above.

- 10. *Provide the names, titles, areas of responsibility, addresses, and telephone numbers of all persons who, between 1958 and 1976, may have:*
 - a. *Disposed of or treated materials at Clearview, Folcroft and Folcroft Annex or other areas of the Site;*
 - b. *Arranged for the disposal or treatment of materials at Clearview, Folcroft and Folcroft Annex or other areas of the Site; and/or*
 - c. *Arranged for the transportation of materials to Clearview, Folcroft and Folcroft Annex, or other areas of the Site (either directly or through transshipment points) for disposal or treatment.*

Response to Question No. 10.

Subject to its general and specific objections and without waiver of its objections, BP America Inc. responds as follows: See the Response to Question 3 above.

- 11. *For every instance in which your establishment(s) disposed of or treated material at Clearview, Folcroft and Folcroft Annex or other areas of the Site, or arranged for the disposal or treatment of material at the Site, identify:*

- a. *The date(s) on which such material was disposed of or treated at the Site;*
- b. *The nature of such material, including the chemical content, characteristics, and physical state (i.e., liquid, solid, or gas);*
- c. *The annual quantity (number of loads, gallons, drums) of such material;*
- d. *The specific location on the Site where such material was disposed of or treated; and*
- e. *Any billing information and documents (invoices, trip tickets, manifests, etc.) in your company's or establishment's(s') possession regarding arrangements made to dispose of or treat such material at the Site.*

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Response To Question No. 11.

Subject to its general and specific objections and without waiver of its objections, BP America Inc. responds as follows: See the Response to Question 4 above.

12. *Did your establishment(s) or any other company or individual ever spill or cause a release of any chemicals, hazardous substances, and/or hazardous waste, and/or non-hazardous solid waste on any portion of Clearview, Folcroft and Folcroft Annex or any other portion of the Site? If so, identify the following:*
- a. *The date(s) of the spill(s)/release(s) occurred;*
 - b. *The composition (i.e., chemical analysis) of the materials which were spilled/released;*
 - c. *The response made by you or on your behalf with respect to the spill(s)/release(s); and*
 - d. *The packaging, transportation, and final disposition of the materials which were spilled/released.*

Response to Question No. 12.

Subject to its general and specific objections and without waiver of its objections, BP America Inc. responds as follows: See the Response to Question 4 above.

13. *Please identify individuals employed by your establishment(s) who were responsible for arranging for the removal and disposal of wastes, and individuals who were responsible for payments, payment approvals, and record keeping concerning such waste removal transactions at your Philadelphia, Pennsylvania area establishment(s) between 1958 and 1976. Provide current or last known addresses and telephone numbers where they may be reached. If these individuals are the same persons identified by your answers to question 3, so indicate.*

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Response to Question No. 13.

Subject to its general and specific objections and without waiver of its objections, BP America Inc. responds as follows: See the Response to Question 3 above.

14. *Did you or any person or entity on your behalf ever conduct any environmental assessments or investigations relating to contamination at Clearview, Folcroft and Folcroft Annex or any other areas of the Site? If so, please provide all documents pertaining to such assessments or investigations.*

Response to Question No. 14.

Subject to the general and specific objections above, and without waiver of these objections, BP America Inc. responds as follows.

BP America Inc. has conducted a diligent search of its records and has not found any documents responsive to this Question. Should BP America Inc. find documents responsive to this Question subsequent to the date of this Response, BP America Inc. will provide such documents to EPA.

15. *If you have any information about other parties who may have information that may assist the EPA in its investigation of the Site, including*

Clearview, Folcroft and Folcroft Annex, or who may be responsible for the generation of, transportation to, or release of contamination at the Site, please provide such information. The information you provide in response to this request should include the party's name, address, telephone number, type of business, and the reasons why you believe the party may have contributed to the contamination at the Site or may have information regarding the Site.

Response to Question No. 15.

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Subject to the general and specific objections above, and without waiver of these objections, BP America Inc. responds as follows.

BP America Inc. has conducted a diligent search of its records and has not found any documents responsive to this Question. Should BP America Inc. find documents responsive to this Question subsequent to the date of this Response, BP America Inc. will provide such documents to EPA.

16. Representative of your establishment(s):

- a. Identify the person(s) answering these questions on behalf of your establishment(s), including full name, mailing address, business telephone number, and relationship to the company.*
- b. Provide the name, title, current address, and telephone number of the individual representing your establishment(s) to whom future correspondence or telephone calls should be directed.*

Response to Question No. 16.

Subject to the general and specific objections above, and without waiver of these objections, Atlantic Richfield responds as follows.

- a. Todd L. Normane, Esq.; BP America Inc., 6 Centerpointe Drive, LPR 6-552, La Palma, CA 90623; Tel: (714) 228-6739; Fax: (714) 228-6570; attorney for BP America Inc.
- b. See Response 16(a) above.

17. *If any of the documents solicited in this information request are no longer available, please indicate the reason why they are no longer available. If the records were destroyed, provide us with the following:*
- a. *Your document retention policy;*
 - b. *A description of how the records were/are destroyed (burned, archived, trashed, etc.) and the approximate date of destruction;*
 - c. *A description of the type of information that would have been contained in the documents; and*
 - d. *The name, job title, and most current address known to you of the person(s) who would have produced these documents; the person(s) who would have been responsible for the retention of these documents; and the person(s) who would have been responsible for the destruction of these documents.*

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Response to Question No. 17.

Subject to the general and specific objections above, and without waiver of these objections, and upon information and belief, BP America Inc. responds as follows.

- a. The BP America Inc. Records Retention Policy is enclosed and labelled, "Question 17(a)."
- b.-d. In addition to the general and specific objections above, and without waiver of these objections, BP America Inc. and its affiliated entities had a number of gasoline service station and related facilities in Pennsylvania, New Jersey and Delaware that may have been in operation during the relevant time period of 26 to 44 years ago that have no relation or relevancy to the present matter. EPA asks BP America Inc. to engage in an overly broad and burdensome exercise to provide information regarding the record retention history for this volume of sites that will not further EPA's inquiry regarding the Site. As stated above, this request is even more objectionable when the basis for the initial speculation is remote and ambiguous at best.

BP America Inc. has conducted a diligent search of its records and has not found any documents responsive to the RFI. It does not appear that there are records responsive to the RFI that are either not available or

BP America Inc.
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Lower Darby Creek Area Superfund Site
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destroyed. Should BP America Inc. find documents responsive to the RFI subsequent to the date of this Response, BP America Inc. will provide such documents to EPA.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd L. Normane", with a long horizontal flourish extending to the right.

Todd L. Normane
Counsel for BP America Inc.

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Encs.

BP AFFILIATED NORTH AMERICAN COMPANIES RECORDS RETENTION PROCEDURES MANUAL TABLE OF CONTENTS

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RECORDS MANAGEMENT PROGRAM

Introduction

BP is concerned with the efficient and economical management of company records. The Records Management Program controls the creation, maintenance and disposition of records and establishes appropriate procedures to be followed by the company.

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Through the implementation of the Records Management Program, the company expects to improve access to valuable information, promote sharing and transfer of information, effectively utilize limited office space for active records, utilize low-cost, remote storage for inactive records, reduce overall costs related to records management, ensure compliance with existing state and federal legal requirements, comply with record requirements related to litigation, government investigation or audit, and ensure the availability of records to those who have legitimate needs for the requisite period of time.

Scope

The procedures detailed within this document apply only to BP Affiliated North American Companies and sets forth a Records Retention Schedule to facilitate the handling of all related records (hard-copy and electronic).

Note: Implementation of these procedures for electronic data will be by gradual phasing.

Policy

It is the general policy of BP to operate the BP Affiliated North American Companies Records Management Program consistent with the following principles:

- Create only those records that are needed for the operation of the company.
- Maintain active and inactive records in appropriate storage equipment, at appropriate locations.
- Identify and protect vital and historical records.
- Utilize records management technologies such as microfilm and electronic imaging systems for appropriate applications.
- Comply with prevailing state, federal, and international legal requirements including legal requirements related to litigation, government investigation and audit.
- Retain records for the period of time established by the approved Records Retention Program.
- Destroy records that are no longer needed for approved purposes.

- Establish a consistent and cost-effective Records Management Program throughout the company.

Company records are the property of the company and not the author or custodian of those records. No employee has any personal or property right to the records of the company including those records that the employee helped develop or compile.

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RESPONSIBILITIES

Records Management is mandatory and expected of everyone. Company records are the property of the company, and not the author or custodian of those records. No employee/contractor has any personal or property right to the records of the company, including those records they helped develop or compile.

Records Management Program will be administered by a local Records Management Department with the assistance of the following individuals and committees.

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Records Management Champion ("Executive Sponsor")

- Commitment from senior management is absolutely essential to the success of any organization-wide program.
- The Executive Sponsor will encourage Records Management Program compliance by including program adherence in the performance contracts of top-level managers.
- The Executive Sponsor will support one central control point for implementation of, and compliance with, the Records Management Program.

YOUR Responsibilities

- **Keep active** business records on-site within your department or as specified by your department management.
- **Manage** records in accordance with BP's established policies and procedures.
- **Store inactive** business records in local records storage facility.
- **Destroy** records when they fulfill BP's records retention requirements.
- **Participate** by:
 - Filing records properly (everyone's job)
 - Storing records in their correct location(s)
 - Breaking "extra copy habit."

All Employees/Contractors have the following responsibilities and need to comply with stated procedures.

- Have a duty to preserve evidence. This is a prerequisite for preventing sanctions being imposed on the company for destruction of evidence. Records must be preserved when:
 - Served with a complaint
 - Litigation is reasonably foreseeable
 - Original (vs. copy) is available.
- To not send documents overseas to avoid producing them.
 - Documents ordinarily retained in North America cannot be sent

overseas where a shorter retention period may apply.

- Documents maintained overseas are not official BP company records.
- Comply with routine document destruction pursuant to the BP North American Companies Records Retention Program. Routine destruction pursuant to the Program before litigation materializes is not "intentional." However,
 - Failure to suspend document destruction protocol before litigation materializes can be found intentional.
 - Reckless or negligent conduct before litigation materializes can be found intentional.
- Adhere to document destruction policies judged by "reasonableness" standard.
 - No systematic destruction of only "harmful records"
 - Consistent and coordinated application of policy is required.
 - Policy cannot be drafted for an improper purpose or blindly administered.
 - Policy cannot be instituted in bad faith.
 - Notification of destruction is provided routinely.
 - Document destruction policies are not applicable where litigation is pending or reasonably foreseeable. Notification of pending or reasonably foreseeable litigation is required worldwide.
- Ensure that company records are maintained, used, transferred, and disposed of according to company policy and procedures.
- Comply with procedures for records destruction and for destruction holds and releases.

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Records Management Board will be responsible for monitoring and approving the BP Affiliated North American Companies Records Management Program and Records Retention Schedule. The committee shall consist of representatives from Legal, Accounting, Tax, Audit, Human Resources, and other major departments in the company. The Records Management Board shall meet at least annually to review the Records Management Program and the Retention Schedule, and more often, as needed, to review other problems related to the Records Management Program.

Records Management Department (local) is responsible for developing and administering the Records Management Program, including the records retention, on-site and off-site records storage, active records storage and retrieval systems, and ensuring compliance with these procedures. The Records Management Department shall coordinate records management activities with

each department in the company through a network of Department Records Coordinators.

Department Records Coordinator Program. Each BU/department shall assign an individual to function as its Department Records Coordinator,

- The Program will coordinate activities of staff currently performing this function and ensure a Coordinator is named for departments that do not have a designated individual(s).
- Establishing this Program gives validation to that individual through identification, support and training.
- The Program will strive for uniformity in processes and policies throughout the company so that records remain constant.
- Management needs to confirm the Coordinator will represent their department and support him/her.
- The Department records Coordinator Program will be valuable proof during litigation that the company is attempting to conduct a Records Management Program in a systematic and proper manner at the lowest possible levels in the organization.
- Responsibilities of the Coordinator, which may be listed in individual performance contracts, may include:
 - Assist during litigation discovery
 - Assist in locating records stored off site
 - Instruct others on use of the Records Retention Schedule
 - Provide input on revision of records Retention Schedule
 - Inform individuals and management on issues regarding record keeping processes
 - Oversee Department destruction practices
 - Coordinate records management efforts with central control point (s)
 - Coordinate archiving efforts (specific individual milestones in company history)

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GLOSSARY

Active Record. A record referenced on a regular basis, generally more than once each month or during the current fiscal year. Active records are usually maintained in departments.

Audit. A periodic examination to determine whether appropriate procedures, practices and Laws are being followed.

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Audit Hold. See **Hold**. The procedure to cease destruction of certain records, even if the Records Retention Program permits destruction, when an audit by an authorized government agency is pending or imminent.

Copy. Also **Duplicate**. See **Unofficial Record**.

Historical Record. A record that documents significant decisions or milestones in the corporation's history, past or present.

Hold. The procedure to cease destruction of certain records, even if the Records Retention Program permits destruction. A hold on a record may be initiated for the following reasons:

- When an audit by an authorized government agency is pending or imminent;
- When litigation or government investigation related to those records is pending, imminent, or, in some cases, foreseeable; or
- When identified as not for destruction for business reasons.

Inactive Record. A record no longer referenced frequently or regularly but which must be retained in accordance with the Records Retention Schedule.

Indefinite. A term used to indicate that the retention period for certain records cannot be determined in advance and that these records must be reviewed periodically to determine whether they have a continuing need to be retained or whether they can be destroyed.

Law. A statute or regulation. The company must apply the Law to the Records Management Program for all jurisdictions in which it does business.

Legal Consideration. A law or legal issue that has a bearing on the records retention period, but which is not a legal requirement.

Legal Hold. See **Hold**. The procedure to cease destruction of certain records, even if the Records Retention Program permits destruction, when litigation or government investigation related to those records is pending, imminent or, in some cases, foreseeable.

Legal Requirement. A law that states a requirement related to records that must be followed or the organization will be subject to fines, penalties, imprisonment, or other adverse legal consequences. For records retention purposes, the **minimum length of time that a record must be retained for legal purposes.**

Office of Record. The group, department, or office responsible for maintaining the official record for the official records retention period. This is often the group that created the record(s) or the one that needs them for the longest period. For example, invoices may be created by a Procurement Department, but the Office of Records may be the Accounting/Account Payable Department who may need to produce the records for a tax audit. Records in certain retention categories (e.g., contracts, project files and general administrative records) may be retained in multiple locations. One set in each location needs to be retained for the total retention period for official records. Duplicate copies may be destroyed in each location according to the retention period for copies.

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Official Record. The version of a record that must be retained for the official records retention period.

Official Records Retention Period. The period for retaining the official version of the record.

Record. Any form of recorded information created or maintained for use at a later time, including paper, microfilm, microfiche, photograph, map, computer disk or tape, software, video, e-mail, or other recorded information originated or received by the corporation for the conduct of business operations and activities.

Record Series. A group of similar or related records that reflect an area of information. The records in a record series may be filed or destroyed together.

Record Value. The importance or usefulness of a record for user (e.g., operational), legal (including tax, if applicable), historical or other purposes.

Record Destruction. The process of totally obliterating information on records by any method to make the information unreadable and unusable under any circumstances.

Records Management. The systematic control of records through the records cycle: creation, maintenance and disposition. Records management ensures that records needed by the organization will be maintained and protected until they are destroyed under the Records Retention Program, that records will be available and accessible, and that **records will be maintained at the lowest possible cost.**

Records Retention Program. A component of the total Records Management Program that determines the period of time for retaining records and controls the destruction of records at the appropriate time.

Records Retention Schedule. The published list of all records groups, the period of time for retaining those records, and their designated disposition.

Retention Category. Same as **Retention Group**. A group of similar or related records that will be maintained for the same records retention period based on the same reasons.

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Retention Period. Same as **Records Retention Period**. The period of time during which records must be maintained because they may be needed for operational, legal, fiscal, historical, or other purposes. A retention period may be stated in terms of months or years, and it sometimes is expressed as contingent upon the occurrence of an event.

Tax Audit. The review by a local or State government tax agency of tax returns and tax records to determine whether the correct amount of tax was paid.

Tax Hold. See **Hold**. The procedure to cease destruction of certain records, even if the Records Retention Program permits destruction, because the records are currently subject to audit or the audit period for those records has been extended.

Unofficial Record. Any duplicate copies, reference materials, etc., that are for convenience or reference purposes and are not designated as official records.

Unofficial Retention. The period of time for maintaining unofficial records, including paper, microfilm, duplicate reports, etc.

User Retention Period. The length of time that a record must be retained to meet departmental and user group record needs.

Vital Record. A record that is essential for continuing business operations immediately following a man-made or natural disaster whose loss would seriously impair the corporation's ability to resume or conduct business.

RECORDS RETENTION PROGRAM REPORTS

Five separate reports are available. They are interrelated to eliminate redundancy and improve consistency. A detailed description of these reports follows.

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Records Retention Schedule organizes the records into large retention categories. The records retention code has been assigned legal group codes from the Legal Group File that determined the legal retention period. The user retention period reflects practical business needs for the records.

Rather than assigning individual records retention periods to thousands of record titles, this records retention approach simplifies the process. Each record title developed by the company was reviewed. Retention categories were then created and coded with the official legal, user, and total retention, the unofficial retention, and the office of record.

Record Title With Retention Periods consists of a listing of record titles developed by the company with the assigned records retention period. The record titles have been assigned record series codes from the Record Series file, which determined the official and unofficial retention periods.

Standard Records Series organizes the record titles into major record categories. Each record series is assigned a records retention code and the corresponding records retention period. Each record title is then assigned to the appropriate record series and the resulting records retention period then related to the record title.

Legal Group File is prepared after completion of the Legal Research Index. This report groups together the Laws applicable to the same types of issues, regardless of jurisdiction or source.

The Legal Group File contains information about each legal group including the legal group code, subject, description, minimum and maximum legal periods, and selected and total legal retention periods. It distinguishes between legal requirements and legal considerations, and states the total legal retention period to be applied in the Records Retention Schedule.

Legal Research Index. Legal Research is the process of identifying and locating legal requirements. It involves identifying, analyzing, organizing, and reproducing the relevant statutes and regulations affecting an organization.

The Legal Research Index contains information including the jurisdiction of the Law, the actual citation, the 14-digit LRBR code (Legal Requirements for Business Records) identifying the Law, subject, legal group codes in the Legal

Group File, legal period, and the agency responsible for administering the Law. The information compiled in the Legal Research Index forms the basis for establishing legal groups in the Legal Group File.

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ABBREVIATIONS

Retention Period Abbreviations

The following retention period abbreviations are used in the Records Retention Schedule, the Records Series With Retention Periods, and the Records Retention Schedule with Record Series reports. All retention periods are stated in terms of "years" unless otherwise noted.

ACT - Active. While the matter is active. For example, while the contract is active or while an employee is still working for the company. As long as equipment is operating.

CO - Commercial Operation. Until commercial operation of the facility.

CY - Current Year. All records created in the same year are treated as though they were created on December 31 of that year.

DND - Do Not Destroy.

IND - Indefinite. A long period of time for retaining records that could not be determined in advance. Every few years these records should be reviewed to determine when they can safely be destroyed.

MAX - Maximum. Keep records no longer than the numerical period stated.

SC - Substantial Completion. Until the work on the facility has been substantially completed.

SUP - Superseded. Keep the records until they are replaced by more current ones.

"+" - Plus. Some retention periods consist of two or more components. For example, records of capital acquisitions should be kept while they are active plus six years (ACT+6).

Legal Period Abbreviations

The following abbreviations are used in the Legal Group File and the Legal Research Index. All legal periods are stated in terms of years unless otherwise noted.

ATX - ACT+TAX. Active plus tax filing date.

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AS - Limitation of Assessment. The period of time after a tax return is filed or the tax becomes due during which the government tax agency can determine or modify the amount of taxes owed.

CY - Current Year.

LA - Limitation of Action. A time period after an event during which a legal action or Lawsuit may be initiated.

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IND - Indefinite. The retention period for these records cannot be determined in advance. These records must be reviewed periodically to determine whether they can be destroyed.

MAINT - Maintain. The legal requirements state that the records must be kept, but doesn't indicate a period. This period can normally be interpreted to be three years under the prevailing principles of Law.

M - Months.

SC - Substantial Completion. Until the work on the facility has been substantially completed.

SL - Statute of Limitations. See definition for Limitation of Action.

TAX - Tax filing date.

Y - Years.

"Number" - Period of time.

"+" - Plus.

UPDATING AND APPROVING RECORDS RETENTION SCHEDULE

Updating Records Retention Schedule

The Records Coordinators will be responsible for updating the records listing for their departments and suggesting the appropriate records retention categories for determining the records retention period. The Records Manager will review the proposed change to the records listing and retention code and approve those modifications that conform to the overall purpose of the Records Management Program. In case of dispute, the Records Management Board will make the final decision.

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Approving Records Retention Schedule

The BP Affiliated North American Companies Records Retention Schedule has been reviewed and approved by representatives from the Tax, Audit and Law Departments.

DESTRUCTION POLICIES AND PROCEDURES

Destroying Records

Records will be destroyed in accordance with the terms of the approved BP Affiliated North American Companies Records Retention Schedule in the normal course of business after the applicable retention period has expired and after those final reviews established under the BP North American Companies Records Retention Program have been accomplished. Proper destruction of active and inactive records is the responsibility of each performance/business unit or functional team. As established retention periods expire, records will be destroyed on an ongoing basis to prevent excessive accumulation and eliminate unnecessary costs of managing obsolete records. Each performance/business unit or functional team is responsible for auditing its records at least once a year to verify that records are being managed in accordance with the approved BP Affiliated North American Companies Records Retention Schedule (compliance audits).

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Local Records Management staff will provide listings to performance/business units or functional teams indicating records held in records storage facilities that are eligible for destruction. (see next section) It is the responsibility of each performance/business unit or functional team to timely review these listings to ensure that no records slated for destruction are subject to existing law or tax holds. The Law, Tax and Audit Departments will also review the destruction listings for records that may be subject to holds. Records will not be destroyed without approval of the performance/business unit or functional team leader and/or Tax, Law and Audit departments in accordance with this Destruction Policy. The performance/business unit or functional team will dispose of records maintained as office files that are determined to be obsolete based on the BP Affiliated North American Companies Records Retention Schedule. Documentation of compliance with the Records Retention Program, including results of compliance audits and proof of destruction, shall be maintained.

Notice of Destruction

To facilitate records destruction, the Records Manager will prepare "Notice of Destruction" forms specifying those records that are due for destruction pursuant to the BP Affiliated North American Companies Records Retention Schedule. Notices of Destruction will be circulated to the applicable performance/business unit or functional team, Law, Audit and Tax Departments for approval **concurrently**. If the Law, Audit and Tax Departments approve destruction of records and the performance/business unit or functional team has not responded to the request for destruction approval, the performance/business unit or functional team will be given an additional 30 days to do so. If the

performance/business unit or functional team fails to provide a response within the additional 30 days, the records will be destroyed.

The decision to postpone destruction of records shall be reserved for foreseeable or pending litigation or government investigations, audits, business specific reasons, or new unforeseen circumstances which now make these records relevant. Requests to postpone destruction must be substantiated accordingly. If a request to delay destruction is substantiated, the local Records Manager may approve the request.

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If a substantial dispute arises regarding a request to postpone destruction of records, the Western Hemisphere Records Management Board will decide the matter.

Notices of Destruction should be generated and distributed for approval no less than once per year. It is recommended they be generated quarterly, semi-annually, or as often as needed to establish good records retention habits and manage volumes of records appropriately.

Removing Records for Destruction

On-site records that are approved for destruction are removed from their filing location and brought to a staging area. The Records Manager or other authorized person shall verify that the records correspond to those identified in the Notice of Destruction Form. The Records Manager or other authorized person who supervise destruction of the records will prepare a Certificate of Destruction. The Certificate of Destruction should specify the records that were destroyed, the date they were destroyed, and provide a signature indicating that they witnessed the destruction. *Third-party vendors destroying BP records pursuant to this policy should use the form provided by the BP Records Manager.* When a commercial records center destroys records according to instructions based on the BP Affiliated North American Companies Records Retention Schedule, that vendor will provide the Certificate of Destruction.

Destruction information should also be noted in the records center database. The Record of Destruction should be retained for the period of time designated in the BP Affiliated North American Companies Records Retention Schedule and should substantiate systematic destruction according to established destruction procedures.

It is unnecessary to keep detailed records on the content of every record destroyed. Information retained on destroyed records should be adequate to establish that destruction was in accordance with BP's Records Management Program and Affiliated North American Companies Records Retention Schedule.

Methods of Destruction

There are three recommended methods of records destruction:

- Shredding: Cut with a mechanical shredder before releasing for destruction.
- Recycle: Deposit in company containers or bags to process in order to regain material to be used again
- Waste Paper: Discard with department or location waste paper. (Only use this method when items are not recyclable material)

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No particular method of destruction is required; however confidential and secret records must be destroyed in a manner so that the information does not become accessible to unauthorized persons. Confidential or proprietary information, requiring supervised or specialized forms of destruction should be destroyed under the supervision of the Records Manager or authorized representative. The Records Manager should also sign a statement related to the form of destruction and attach documentation for destruction services received from outside sources.

Electronic records stored on diskette, tape or other physical medium will be destroyed or recycled in an environmentally controlled and approved fashion in line with the universally accepted standards of the time. Electronic files stored on disk drives or hard drives should be destroyed by "true" deletion or reformatting of disk/hard drive.

Establishing Holds on Records

Records that are subject to existing court and administrative orders in litigation, governmental proceedings or investigations, audits or are otherwise identified as not for destruction for business reasons cannot be destroyed even when permitted by the BP Affiliated North American Companies Records Retention Schedule. In order to prevent these records from inadvertently being destroyed, a system of "holds" will be assigned to records subject to these Law constraints.

No records subject to a "hold" will be considered for destruction until the "hold" is removed. For this reason, no records subject to a "hold" should appear on a Notice of Destruction form. The person or department placing the "hold" on the records will promptly notify the Record Management Department by e-mail when a "hold" can be released.

Hold lists will be generated periodically by Records Management staff for performance/business unit or functional team review. Information on Law and tax holds will be kept current on the BP Records Management Western

Hemisphere web page and will include a summary of records to be retained and a point of contact for each hold matter.

Legal Holds

Destruction of relevant records will be automatically suspended when litigation or government investigation is foreseeable or pending. There must be a clear line of communication between the Records Manager and the Law Department to facilitate the exchange of information and to suspend the destruction of records. The Law Department is responsible for:

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1. Determining the scope of the litigation or other adversarial action, or investigation where the Law Department is providing counsel
2. Determining the types of records affected and;
3. Communicating this information to the Records Manager.

It may be necessary to suspend destruction of all records for a short period of time until the Law Department has completed its review. For each record subject to a Law hold, the Law Department will provide the Records Manager with the applicable case name and assigned attorney and paralegal.

The local Records Management department will update its records management database to reflect records on Law hold and which Law matter each held record relates to. The Records Managers should circulate a list of held records to the Law Department on an annual basis to verify that the holds are still in force.

A listing of current legal holds can be found at the "Retention Schedule" button on the Records Management Western Hemisphere home page (<http://recordsinfo.bpweb.bp.com>)

Tax Holds

Destruction of relevant records will be automatically suspended when a government tax audit is foreseeable or pending. There must be a clear line of communication between the Records Managers and the Tax Department to facilitate the exchange of information and to suspend the destruction of records. The Tax Department is responsible for:

1. Determining the scope of the audit (relevant years) and
2. Communicating this information to the Records Managers.

Immediately upon receiving information from the Tax Department identifying relevant years of a tax audit, the Records Management Department will update its records management database to reflect the records subject to a tax hold. The Records Managers will distribute a list of held records to the Tax Department annually to verify that the holds are still in force.

A listing of current tax holds can be found at the "Retention Schedule" button on the Records Management Western Hemisphere home page (<http://recordsinfo.bpweb.bp.com>)

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